

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LENIER RENE AYERS,

Plaintiff,

v.

LESLIE SZIEBERT, *et al.*,

Defendants.

Case No. C07-5520 RJB/K/S

ORDER TO SHOW CAUSE

This matter comes before the Court on Plaintiff's application to proceed *in forma pauperis* and a civil rights complaint under 42 U.S.C. § 1983. To file a complaint and initiate legal proceedings plaintiff must pay a filing fee of \$350.00 or file a proper application to proceed *in forma pauperis*.

DISCUSSION

On September 25, 2007, the Clerk received Plaintiff's complaint and application to proceed *in forma pauperis*. (Dkt. # 1). On October 5, 2007, the Court received a Notice of Funds Owed to Plaintiff in the Court's Registry. (Dkt. # 3). By this Notice, the Attorney General's office notified the Court that Plaintiff will receive settlement proceeds in Case No. 6-5264RBL/KLS.


The court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963). Several district courts have ruled that denial of *in forma pauperis* status is not

1 unreasonable when a prisoner is able to pay the initial expenses required to commence a lawsuit. See
2 *Temple v. Ellerthorpe*, 586 F.Supp. 848 (D.R.I. 1984); *Braden v. Estelle*, 428 F.Supp. 595 (S.D.Tex.
3 1977); *U.S. ex rel. Irons v. Com. of Pa.*, 407 F.Supp. 746 (M.D.Pa. 1976); *Shimabuku v. Britton*, 357
4 F.Supp. 825 (D.Kan. 1973), *aff'd*, 503 F.2d 38 (10th Cir. 1974); *Ward v. Werner*, 61 F.R.D. 639 (M.D.Pa.
5 1974).

6 Accordingly, the Court **ORDERS** the following:

- 7 (1) Plaintiff shall show cause **no later than November 23, 2007**, why the Court should not
8 consider the existence of the settlement funds in Case No. 6-5264RBL/KLS in determining
9 whether Plaintiff is able to pay the initial expenses required to commence this lawsuit; and
10 (2) The Clerk is directed to send a copy of this Order to Plaintiff.

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12 DATED this 25th day of October, 2007.

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17 Karen L. Strombom
18 United States Magistrate Judge
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